

REMARKS

Applicants have received and carefully reviewed the Office Action mailed October 7, 2003. Claims 1-120 were rejected. With the above amendments, claims 1-120 have been cancelled, and claims 121-131 are newly presented. Consideration and examination of the newly presented claims are respectfully requested.

Applicants believe that the above cancellation of claims 1-120 has rendered all claims objections and rejections of the Office Action moot. However, in the interests of expediting prosecution of the present application, the following comments may be of assistance to help distinguish the claims from U.S. Patent No. 6,148,230 to KenKnight.

In particular, the Examiner stated in Section 7 of the Office Action, on page 4:

Regarding claims 1, 27-29, 31, 28, 53, 57-59, 61, 87-89, 91, and 117-119, KenKnight shows an ICD comprising a housing having an electrically conductive surface on an outer surface of the housing; a lead assembly (20) coupled to the housing which does not directly contact the patient's heart or reside in the intrathoracic blood vessels; a capacitor system located within the housing and electrically coupled to the electrically conductive surface of the electrode and a battery subsystem electrically coupled to the capacitor system.

Applicants note that KenKnight illustrates not only the noted lead assembly 20, but also a second "lead assembly" in the form of a transvenous catheter 11. It also appears that KenKnight consistently makes use of at least one electrode on the transvenous catheter 11 as a defibrillating electrode.

The rest of the Office Action does not appear to address the question of whether any of the cited references illustrate electrodes disposed exclusive of the heart. Therefore, it is believed that further comment would not aid in advancing prosecution of the present claims.

In paragraph 19 of the Office Action, a number of the originally presented claims were provisionally rejected for obviousness type double patenting. It is believed that the above-presented claims avoid this rejection. Applicants note that the claims in both noted cases have been amended such that none of the noted claims will remain pending. However, if the Examiner restates provisional rejections with respect to the newly presented claims, a terminal disclaimer can be filed in response.

Reconsideration and reexamination are respectfully requested. It is believed that each of claims 121-131 are allowable as presented. Issuance of a notice of allowance in due course is respectfully requested. If a telephone interview would be of assistance, please contact the undersigned attorney at 612-677-9050.

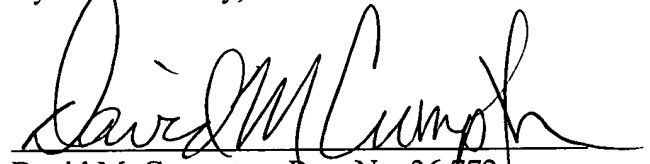
Respectfully submitted,

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By their Attorney,

Date: _____

2/6/04



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